

## LEGISLATIVE BILL 373

Approved by the Governor April 7, 2010

Introduced by Lautenbaugh, 18.

FOR AN ACT relating to emergency response personnel; to amend sections 18-1723 and 35-1001, Reissue Revised Statutes of Nebraska; to change provisions relating to death or disability presumptions for a firefighter or police officer and death or disability prima facie evidence requirements for a firefighter or firefighter-paramedic; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 18-1723, Reissue Revised Statutes of Nebraska, is amended to read:

18-1723 Whenever any firefighter who has served a total of five years as a member of a paid fire department of any city in this state or any police officer of any city or village, including any city having a home rule charter, shall suffer death or disability as a result of hypertension or heart or respiratory defect or disease, there shall be a rebuttable presumption that such death or disability resulted from accident or other cause while in the line of duty for all purposes of Chapter 15, article 10, sections 16-1001 to 16-1042, and any firefighter's or police officer's pension plan established pursuant to any home rule charter, the Legislature specifically finding the subject of this section to be a matter of general statewide concern. The rebuttable presumption shall apply to death or disability as a result of hypertension or heart or respiratory defect or disease after the firefighter or police officer separates from his or her applicable employment if the death or disability occurs within three months after such separation. Such rebuttable presumption shall apply in any action or proceeding arising out of death or disability incurred prior to December 25, 1969, and which has not been processed to final administrative or judicial conclusion prior to such date.

Sec. 2. Section 35-1001, Reissue Revised Statutes of Nebraska, is amended to read:

35-1001 (1) For a firefighter or firefighter-paramedic who is a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state, including a municipality having a home rule charter or a municipal authority created pursuant to a home rule charter that has its own paid fire department, and who suffers death or disability as a result of cancer, including, but not limited to, cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, or prostate systems, evidence which demonstrates that (1) (a) such firefighter or firefighter-paramedic successfully passed a physical examination upon entry into such service or subsequent to such entry, which examination failed to reveal any evidence of cancer, (2) (b) such firefighter or firefighter-paramedic was exposed to a known carcinogen, as defined on July 19, 1996, by the International Agency for Research on Cancer, while in the service of the fire department, and (3) (c) such carcinogen is reported by the agency to be a suspected or known cause of the type of cancer the firefighter or firefighter-paramedic has, shall be prima facie evidence that such death or disability resulted from injuries, accident, or other cause while in the line of duty for the purposes of sections 16-1020 to 16-1042, a firefighter's pension plan established pursuant to a home rule charter, and a firefighter's pension or disability plan established by a rural or suburban fire protection district.

(2) For a firefighter or firefighter-paramedic who is a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state, including a municipality having a home rule charter or a municipal authority created pursuant to a home rule charter that has its own paid fire department, and who suffers death or disability as a result of a blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant Staphylococcus aureus, evidence which demonstrates that (a) such firefighter or firefighter-paramedic successfully passed a physical examination upon entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant Staphylococcus aureus, and (b) such firefighter or firefighter-paramedic has engaged in the service of the fire department within ten years before the onset of the disease, shall be prima facie evidence that such death or disability resulted from injuries, accident, or other cause

while in the line of duty for the purposes of sections 16-1020 to 16-1042, a firefighter's pension plan established pursuant to a home rule charter, and a firefighter's pension or disability plan established by a rural or suburban fire protection district.

(3) The prima facie evidence presumed under this section shall extend to death or disability as a result of cancer as described in this section, a blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant Staphylococcus aureus after the firefighter or firefighter-paramedic separates from his or her service to the fire department if the death or disability occurs within three months after such separation.

(4) For purposes of this section, blood-borne infectious disease means human immunodeficiency virus, acquired immunodeficiency syndrome, and all strains of hepatitis.

Sec. 3. Original sections 18-1723 and 35-1001, Reissue Revised Statutes of Nebraska, are repealed.